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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,865	01/14/2004	James Peter Branigan	AUS920030841US1	3390

28722 7590 04/10/2007	EXAMINER	
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AUSTIN, TX 78767-0969	ART UNIT	PAPER NUMBER
	2194	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/756,865	BRANIGAN ET AL.
	Examiner	Art Unit	
	Diem K. Cao	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>14 January 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>5/12/2005</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   Claims 1-27 are presented for examination.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 10-18 are directed to system claims. However, the bodies of the claims do not recite any physical article or object to meet the requirement of being a machine or manufacture claims. Even the claims recite "means for", however, in this instance application, "means for" are software modules.

The claims 19-27 are directed to a signal directly or indirectly by claiming a medium and the Specification recites evidence where the computer readable medium is define as a *"wave"* (such as a carrier wave), see specification, page 27, paragraph 96. In that event, the claims are directed to a form of energy which at present the office feels does not fall into a category of invention.

See MPEP 2106-2107

Double Patenting

3.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4.   Claims 1-2, 8, 10-11, 18, 19-20 and 28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 11-13 and 21-23 of copending Application No. 10/756,864 in view of Cranor et al (U.S. 6,671,742 B1). Both application 10/756,864 and this instant application are directed to a method and system for providing publish/subscribe functionality within a computer system, the method/system comprising generating subscriptions from subscription components, the subscription includes node ID and ID of the type of data, and expression that indicates particular criteria to be met for publication data to satisfy the request, publish data that includes the ID and data, and provide the published data to the subscription components when the criteria in the subscription is met. The only different between this instance application and the copending application is the copending application is in a modular computer environment. Cranor teaches an event exchange mechanism for software system that utilizes a publish/subscribe model in a module computer environment (abstract).

This is a <u>provisional</u> obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.   **Claims 1, 5, 9, 10, 14, 18, 19, 23 and 27 are rejected under 35 U.S.C. 102(b) as being**

anticipated by Cohen (U.S. 5,881,315).

As to claim 1, Cohen teaches a method for specifying a return of specific data in response

to a search query issued to a subscribe the publish communication interface (abstract), the

method comprising:

- generating (create) a subscription object (a particular "event filter group") containing a

    primary identifier (ID) (event type, an event type format ... identifier) of a published data

    (event); See col. 6, lines 33-38, lines 47-49

- including within the subscription object an expression indicating a specific context

    desired for satisfying the subscription object once the published data is identified on the

    communication interface (an event filter group ... filter expressions ... consumer; col. 6,

    lines 59-67);

- wherein, once the subscription object is placed on the subscribe and publish

    communication interface (Once the event ... Event Log 42; col. 7, lines 12-15), a

response to the subscription object is only provided following publication of the

published data and a confirmation of the specific context (EMS 22 then performs ...

interested consumers; col. 7, lines 15-56).

As to claim 5, Cohen teaches the expression is one or a combination of a logical

expression and a condition expression (An event filter ... event type; col. 6, lines 62-64).

As to claim 9, Cohen teaches

- providing a query expression within the subscription object containing an operand other

    than a wildcard for uniquely differentiating the query from a query for a generic response

    (an event filter group ... filter expressions ... consumer; col. 6, line 59 – col. 7, line 11);

- publishing the query to an information kit (the filter data ... Database 46; col. 6, line 41-

    43); and

- receiving a response containing a publication object satisfying the entire query (col. 7,

    lines 40-46).

As to the system claim 10, it is the same as the method claim 1 and is rejected under the

same ground of rejection.

As to the computer product claim 19, it is the same as the method claim of claim 1 and is

rejected under the same ground of rejection.

As to claims 14 and 23, see rejection of claim 5 above.

As to claims 18 and 27, see rejection of claim 9 above.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

8.   **Claims 2, 4, 6, 11, 13, 15, 20, 22 and 24 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Cohen (U.S. 5,881,315) in view of Pohlmann et al. (U.S. 6,366,926 B1).

As to claim 2, Cohen does not explicitly teach providing within the subscription object an

address of a node associated with a subscribing component, which generated the subscription

object, and registering the node within the communicating interface as requesting at least a

notification of the published data, wherein the node receives a notification when only a

notification is desired and the node receives the published data when the published data is

requested.

However, Cohen teaches generate the subscription object for the consumer at a node

(data group from which this request came; col. 5, lines 31-32 and create ... "event filter group";

col. 6, lines 33-38), and send the qualified event to the interested consumers (EMS 22 then

performs ... interested consumers; col. 7, lines 15-25, remote process 26n; see Fig. 3 and

associated text). Pohlmann teaches providing within the subscription object an address of a node associated with a subscribing component, which generated the subscription object (data group from which this request came; col. 5, lines 31-32), and registering the node within the communicating interface as requesting at least a notification of the published data, wherein the node receives a notification when only a notification is desired and the node receives the published data when the published data is requested (When a subscription ... also forwarded; col. 5, lines 16-28).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Pohlmann to the system of Cohen based on Cohen teaching to include address of the node that generates the request in order to send the qualified event back.

As to claim 4, Cohen as modified by Pohlmann teaches expanding a registration of the node to include the expression (col. 5, lines 30-33).

As to claim 6, Cohen teaches wherein when the expression is a logical expression requiring a publication of two or more different data each having unique data type Ids (one or more filter expression which are logically ANDed together; col. 6, lines 62-63 and col. 7, lines 1-12), the method further comprises:

- retrieving an associated data type ID for each publication to the communication interface (retrieve ... filter; col. 7, lines 30-36);

- comparing the publication's data type ID against each unique data type ID within the logical expression (evaluating next filter; col. 7, line 40); and

- providing the response to the subscription object only when each of the data type Ids are

    matched against publication data type Ids (if all of the filer .. consumer; col. 7, lines 41-

    46).

As to claims 11 and 20, see rejection of claim 2 above.

As to claims 13 and 22, see rejection of claim 4 above.

As to claims 15 and 24, see rejection of claim 6 above.

9.   Claims 3, 12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cohen (U.S. 5,881,315) in view of Pohlmann et al. (U.S. 6,366,926 B1) further in view of

Arslan (Event Library: an object-oriented library for event-driven design).

As to claim 3, Cohen teaches matching an ID of a newly published data to a primary ID

of a desired published data (the filtering routine ... particular event ... Consumer Database; col.

7, lines 27-31). Cohen does not explicitly teach flagging a registration of the node to indicate

additional criteria needs to be satisfied prior to issuing the notification or issuing the notification

published data to the node; and when the registration has an associated flag, verifying that the

additional criteria is satisfied before indicating a match. However, Arslan teaches conditional

event subscription for subscribed objects only interested in events fulfilling certain criteria (page

10, second paragraph). It would have been obvious to one of ordinary skill in the art at the time

the invention was made to apply the teaching of Arslan to the system of Cohen because Arslan

teaches a powerful library the implement the most common event-driven techniques, and it can

be extended to handle users' advanced needs.

        As to claims 12 and 21, see rejection of claim 3 above.

10.   **Claims 7-8, 16-17 and 25-26 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Cohen (U.S. 5,881,315) in view of Pohlmann et al. (U.S. 6,366,926 B1)

further in view of Feridun et al. (U.S. 6,336,139 B1).

        As to claim 7, Cohen teaches receiving confirmation that all criteria within the expression

has been satisfied (A test is then ... namely TRUE; col. 7, line 41-44), and completing a

secondary function when the confirmation is received (the routine passes ... consumer; col. 7,

lines 44-46).

        Cohen does not explicitly teach wherein the subscription component is an agent.

However, Feridun teaches the subscription component is an agent (each software agent can

register a correlation rule for a given event which cause the software agent to run when the event

is received; col. 8, lines 25-27).

        It would have been obvious to one of ordinary skill in the art at the time the invention

was made to apply the teaching of Feridun to the system of Cohen because Feridun teaches

software components that may be statically or dynamically deployed into a distributed

computing environment and then executed within a given execution context to examine and correlate one or more given event streams (col. 1, lines 59-67)

As to claim 8, Cohen teaches the subscribe and publish communication interface is an information kit (Event Management Service; col. 6, lines 7-8) and the subscription object is an information kit subscription object (event filter group; col. 6, lines 38-39).

As to claims 16-17, see rejections of claims 7-8 above.

As to claims 25-26, see rejections of claims 7-8 above.

Conclusion

11.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892.
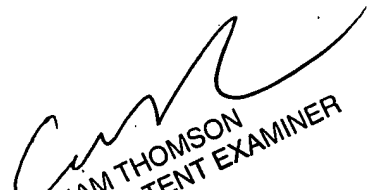
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diem K. Cao whose telephone number is (571) 272-3760. The examiner can normally be reached on Monday - Friday, 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC
March 30, 2007

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER